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11 Attorneys for Defendants  
12 Countrywide Home Loans, Inc. (d/b/a  
13 America's Wholesale Lender), BAC Home  
14 Loans Servicing, LP (f/k/a Countrywide  
15 Home Loans Servicing L.P.), ReconTrust  
16 Co., N.A., Bank of America, N.A., and  
17 Bank of New York Mellon f/k/a The  
18 Bank of New York as Trustee

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

19 PETRA MARTINEZ,  
20 Plaintiff,  
21 v.  
22 AMERICA'S WHOLESALE LENDER, *et al.*,  
23 Defendants.

24 Case No.: 09-cv-05630-WHA  
25 (Superior Court Case No. M100410)

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**DECLARATION OF MICHAEL  
CERCHIO IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

29 Date: March 4, 2010  
30 Time: 8:00 a.m.  
31 Courtroom: 9, 19th Floor  
32 Judge: Hon. William H. Alsup

1 I, Michael Cerchio, declare as follows:

2 1. I am Vice President in the Corporate Trust Services department of The Bank of New  
3 York Mellon f/k/a The Bank of New York as Trustee ("BNY"). I am making this declaration in  
4 support of the motion for summary judgment filed in this action by defendants Countrywide Home  
5 Loans, Inc. (d/b/a America's Wholesale Lender), BAC Home Loans Servicing, LP (f/k/a  
6 Countrywide Home Loans Servicing L.P.), ReconTrust Co., N.A., Bank of America, N.A., and BNY.  
7 I am familiar with the facts and circumstances set forth herein, based on my review of BNY's  
8 records.

9 2. BNY is the trustee for a trust known as "CHL Mortgage Pass-Through Trust 2006-  
10 HYB4" ("Trust"). The assets of the Trust consist primarily of a pool of mortgage loans secured by  
11 first liens on one- to four-family residential properties. All of the mortgage loans in the Trust have  
12 original terms to maturity of 30 years. The rate on each mortgage loan is adjustable based on a  
13 specified index after a specified period after origination during which the mortgage rate is fixed.

14 3. CWMBS, Inc., a Delaware corporation ("Depositor") purchased these mortgage loans  
15 from Countrywide Home Loans, Inc. ("CHL") and one or more other sellers affiliated with  
16 Countrywide Financial Corporation ("Sellers"). These purchases were made pursuant to a May 1,  
17 2006 pooling and servicing agreement ("PSA"). The parties to the PSA include the Depositor, the  
18 Sellers, Countrywide Home Loans Servicing LP (as master servicer to the loans), and BNY (as  
19 trustee).

20 4. BNY is the designated custodian for all of the collateral documents conveyed to the  
21 trustee under the PSA.

22 5. Pursuant to the PSA, CHL has transferred to the trustee numerous notes and  
23 mortgages (or deeds of trust), including a note in the amount of \$1,500,000 executed by Petra  
24 Martinez in favor of America's Wholesale Lender ("Note"), and a deed of trust that secured the Note  
25 with real property located at 25339 Camino De Chamisal, Salinas, California. CHL had obtained  
26 possession of the original Note at or around the time of the January 4, 2006 Loan, which CHL  
27 offered under its d/b/a trade name, America's Wholesale Lender.

6. On or about May 25, 2006, the original Note was delivered to BNY, as custodian, and it has since remained in the possession of BNY at all times thereafter in its offices at Cypress, California.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on this  
27th day of January 2010, at New York, NY.

Michael Cerchio  
**Michael Cerchio**  
Vice President